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November 29, 1999

VIA HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, DC 20554

RECEIVED
NOV 29 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY


Re: Comanche County Telephone Company, Inc., Oklahoma Telephone and Telegraph, Inc., North Texas Telephone, Inc., and Millennium Telecom, LLC; Request for Waiver of Section 642401 of the Commission's Rules; CC Docket No. 98-170

Dear Ms. Salas:

Transmitted herewith, on behalf of Comanche County Telephone Company, Inc., Oklahoma Telephone and Telegraph, Inc., North Texas Telephone, Inc., and Millennium Telecom, LLC (collectively, "The Petitioning Local Exchange Companies" or "Petitioners") and pursuant to §1.3 of the Rules and Regulations of the Federal Communications Commission's ("Commission's") rules are an original and five copies of the Petitioners' Request for Waiver of the Truth-in-Billing requirements. Specifically, Petitioners seek expedited limited waiver of Sections 64.2401(a)(1) and (a)(2) and Section 64.2401(d) of the Commission's rules and requirements established by the Commission in its First Report and Order and Further Notice of Proposed Rulemaking, released May 11, 1999. The request contains declarations with facsimile signatures. The original declarations will be filed with the Commission as soon as they are available.

Should you have any questions concerning this matter, please communicate directly with the undersigned.

Sincerely,


Edward D. Kania

Enclosure

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Truth-in-Billing

And

Billing Format

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CC Docket No. 98-170

REQUEST FOR WAIVER OF SECTION 64.2401
OF THE COMMISSION'S RULES

Comanche County Telephone Company, Inc., Oklahoma Telephone & Telegraph, Inc., North Texas Telephone, Inc., and Millennium Telecom, LLC (collectively, "the Petitioning Local Exchange Companies" or "Petitioners")¹, pursuant to §1.3 of the Rules and regulations of the Federal Communications Commission ("FCC" or "Commission")², hereby request an expedited limited waiver of the Truth-in-Billing ("TIB") requirements established by the Federal Communications Commission ("Commission" or "FCC") in its *First Report and Order and Further Notice of Proposed Rulemaking*, released May 11, 1999 and published in the *Federal Register* on June 25, 1999, in the above-captioned matter.³ Specifically, the Petitioners seek a temporary waiver of the requirements of Section 64.2401(a)(1) and (a)(2) regarding name of service provider and separation of charges by service provider (the "TIB Separate Provider Requirements"), and Section 64.2401(d) regarding disclosure of inquiry contacts (the "TIB Inquiry Contact Requirement") (collectively, the "TIB Requirements").⁴ The Petitioners seek this waiver until April 1, 2000 because they are technically incapable of providing a bill that is

¹ Attachment A contains the declarations of each of the Petitioners. The declarations contain facsimile signatures. The original signed declarations will be filed with the Commission upon receipt by counsel.

² 47 C.F.R. §1.3 (1996).

³ In the Matter of Truth-in-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 99-72, released May 11, 1999, 64 Fed. Reg. 34488 (June 25, 1999), Errata, CC Docket No. 98-170, DA 99-2092, released October 6, 1999.

⁴ 47 C.F.R. § 64.2401(a) states that: (1) the name of the service provider associated with each charge must be clearly identified on the telephone bill; and (2) where charges for two or more carriers appear on the same telephone bill, the charges must be separated by service provider, and the billing entity must provide clear and conspicuous notification of any change in service provider, including notification to the customer that a new provider has begun providing service.

47 C.F.R. § 64.2401(d) states that: Telephone bills must contain clear and conspicuous disclosure of any information that the customer may need to make inquiries about, or contest charges, on the bill.

compliant with the TIB Requirements by their first billing date following the November 12, 1999 effective date⁵ for the regulations.

Further, the Petitioners recognize that a pending Joint Petition filed by the National Exchange Carrier Association, Inc., the National Telephone Cooperative Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, Inc. (collectively the "Associations") seeks similar relief for their member companies. However, even if the FCC does not deem to grant the Associations' Petition, the Petitioners' unique factual situations warrant a waiver of the TIB Requirements until April 1, 2000.

If the Commission grants the requested waiver, the Petitioners will continue to provide assistance to customers with questions concerning charges from particular carriers, thereby fulfilling the underlying spirit of the TIB Requirements. The Petitioners therefore respectfully submit that these actions will ensure that the underlying public interest objectives of the TIB Requirements will be advanced during the time that the requested waiver is necessary and in effect.

I. Background

The Petitioners provide exchange and exchange access services in Oklahoma and Texas. Petitioners utilize Martin and Associates as their billing software vendor. Petitioners contacted Martin and Associates shortly after becoming aware of the impending TIB requirements. Martin and Associates assured the Petitioners that it would be capable of modifying Petitioners' billing software so that it could expect to be in compliance with the TIB requirements by the appropriate effective date.

However, on November 12, 1999, Martin and Associates informed the Petitioners that timely compliance with the TIB Requirements would not be possible. As soon Petitioners became aware that they would not be in compliance, the Petitioners investigated what specific TIB issues needed to be addressed, and what billing system software upgrades were required for compliance with the TIB Requirements. The Petitioners understand from Martin and Associates that the necessary software and associated testing can be completed by April 1, 2000. As explained more fully below, it is not feasible for the Petitioners to comply with the TIB Requirements by December 1, 1999, the first billing cycle following the November 12, 1999 effective date.

⁵ On October 12, 1999, the FCC announced, in the *Federal Register*, that the effective date for these sections would be November 12, 1999. The first billing cycle after November 12, 1999 is December 1, 1999. Accordingly, December 1, 1999 will be the date of noncompliance for Petitioners.

The need for this waiver is based on the Petitioners' inability to comply with the TIB Requirements given their current billing software and inability to upgrade such software prior to the effective date of the Commission's TIB rules. Specifically, the Petitioners receive data from numerous alternative service provider's clearinghouses, which are in turn aggregated to one section of the Petitioners' end user bill. The Petitioners' existing billing software does not sort call records by alternative service provider where the records involve a "sub-CIC"⁶ of that provider⁷. Additionally, the Petitioners' existing software is not capable of placing the name of a "sub-CIC" alternative service provider or its toll free number on the bill. Accordingly, the Petitioners' existing software would require extensive modifications to accommodate varying levels of screening and identification of an alternative service provider.

II. Good Cause Exists for and the Public Interest will be Served by a Grant of this Limited Waiver

Based on these aforementioned facts and circumstances, the Petitioners respectfully submit that good cause exists for a grant of this limited waiver⁸, and that the public interest will be served by such action. As demonstrated herein, the Petitioners' software vendor will not be able to develop the necessary software in time to implement it before the Petitioners' first billing cycle after the TIB Requirements November 12, 1999 effective date. Additionally, the Petitioner does not have enough time to successfully test such software upgrades prior to that billing cycle. The Petitioner does anticipate, based on representations made by its billing software vendor, that compliance with the TIB Requirements should be possible by April 1, 2000. As a result, for the reasons stated, good cause exists for this limited waiver.

The Petitioners also respectfully submit that the public interest would be served by granting this request for waiver. First, the Commission has recognized the need to balance the implementation of new regulatory directives, which affect computerized systems with on going Year 2000 activities.⁹ The software changes which would be required under the Commission's rules would clearly impose of Petitioners' final Year 2000 preparations. The Commission's

⁶ A "CIC" is the Carrier Identification Code assigned to a specific carrier. The use of "sub-CICs" allows other providers to provide service by sharing a CIC.

⁷ The amounts of alternative service provider billing is de minimus compared to the "1+" billing services that the Petitioners provide.

⁸ Rule 1.3 of the Commission's rules states that any provision of the rules may be waived by the FCC for "good cause."

⁹ See In the Matter of Minimizing Regulatory and Information Technology Requirements That Could Adversely Affect Progress Fixing the Year 2000 Date Conversion Problem, Year 2000 Network Stabilization Policy Statement, FCC 99-272, released October 4, 1999 ("Year 2000 Policy Statement") at para.15.

concerns regarding utilization of its Year 2000 Policy Statement to “‘forestall’ or ‘roll back’ disfavored regulations, or use this policy for purposes of competitive advantage”¹⁰ are not applicable here. The Petitioners are working toward TIB rule compliance and seek only a limited extension of time consistent with the Commission-prescribed compliance date of certain other TIB Rules. Accordingly, there is no basis to conclude that the Petitioners are attempting to forestall or roll back disfavored regulations. Moreover, there is no competitive advantage associated with this request. A grant of this request for waiver does not affect a competitor of the Petitioners; rather it allows an interim measure to be implemented that allows continuation of existing billing arrangements with other carriers in a manner consistent with the status of overall TIB compliance efforts by the Petitioners.

Second, the Commission has already determined that the April 1, 2000 date is appropriate for the implementation of other TIB requirements.¹¹ Accordingly, the ability of the Petitioners to continue to work toward the April 1, 2000 implementation date for all TIB rules would ensure efficiency and continuity in the development of the Petitioners’ billing system capability without incurring unnecessary expenditure or jeopardizing Year 2000 compliance issues.

Finally, the underlying goal of the TIB Requirements would not be subverted by a grant of the requested waiver. As is the case currently, each of the Petitioners will continue to provide its local telephone number on the bill in order to allow customers to contact the Petitioner about charges. Likewise, when a customer questions an alternative service provider’s charge, the Petitioners will, at the customer’s preference, provide the alternative service provider’s toll-free number or will seek to establish a three-way conference call with the alternative service provider so that the customer will be able to obtain clarification about any charges. Therefore, the goal of the TIB Requirements will be advanced. Waiver of the TIB Requirements as requested herein will merely maintain the Petitioners’ current policies until the billing system modifications are made and successfully tested, while effecting the goals of these requirements in a positive manner.

III. Conclusion

Because the Petitioners are technically incapable of complying with the Requirements by their first billing cycle following the November 12, 1999 effective date, a grant of this request until April 1, 2000 will ensure that the petitioners can implement the directives from the

¹⁰Id. at para. 16.

¹¹See n. 5, supra.

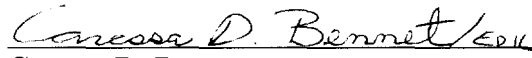
Commission with respect to TIB in an efficient manner while avoiding unnecessary expense or raising additional Year 2000 compliance issues. At the same time, the consumer goals of the TIB Inquiry Contact Rule will not be frustrated by a grant of this request. Rather, such goals will be furthered by allowing Petitioners to continue to provide customer assistance and responsiveness when questions are received regarding the charges for services or the identity of service providers.

Accordingly, in the event that action on the Associations' Petition does not grant the extent of the relief requested herein, the Petitioners request a waiver of the requirements of 47 C.F.R. §§ 64.2401(a)(1) and (a)(2) and 64.2401(d) until April 1, 2000.

Respectfully submitted,

**COMMANC COUNTY TELEPHONE COMPANY, INC.
OKLAHOMA TELEPHONE & TELEGRAPH, INC.
NORTH TEXAS TELEPHONE, INC.
MILLENNIUM TELECOM, LLC**

By Their Attorneys:


Caressa D. Bennet
Edward D. Kania

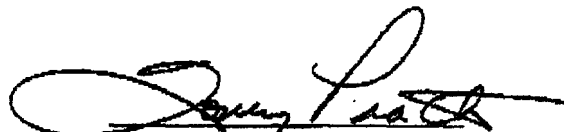
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November 29, 1999

DECLARATION OF TONEY PRATHER

I, Toney Prather, as President, Comanche County Telephone Company, Inc., hereby declare under penalty of perjury, that I have reviewed the foregoing "Petition for Waiver of Section 64.2401 of the Commission's Rules" and that it is true and correct to the best of my information, knowledge and belief.

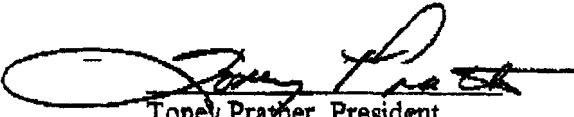
11-29-99
Date


Toney Prather, President
Comanche County Telephone
Company, Inc.

DECLARATION OF TONEY PRATHER

I, Toney Prather, as President, Oklahoma Telephone & Telegraph, Inc, hereby declare under penalty of perjury, that I have reviewed the foregoing "Petition for Waiver of Section 64.2401 of the Commission's Rules" and that it is true and correct to the best of my information, knowledge and belief.

11-29-99
Date



Toney Prather, President
Oklahoma Telephone & Telegraph,
Inc.

DECLARATION OF TONEY PRATHER

I, Toney Prather, as President, North Texas Telephone, Inc., hereby declare under penalty of perjury, that I have reviewed the foregoing "Petition for Waiver of Section 64.2401 of the Commission's Rules" and that it is true and correct to the best of my information, knowledge and belief.

11-29-99

Date

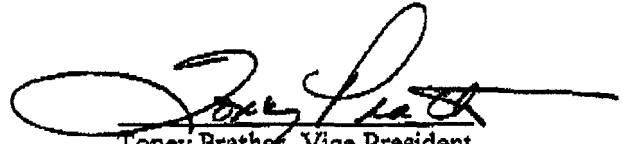


Toney Prather, President
North Texas Telephone, Inc.

DECLARATION OF TONEY PRATHER

I, Toney Prather, as Vice President, Millennium Telcom, LLC, hereby declare under penalty of perjury, that I have reviewed the foregoing "Petition for Waiver of Section 94.4444 of the Commission's Rules" and that it is true and correct to the best of my information, knowledge and belief.

11-29-99
Date


Toney Prather, Vice President
Millennium Telcom, LLC